

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Union Pacific Railroad Company
for An Order Declaring and Adjudicating the
Legal Status of the Cal Poly Crossing at Milepost
246.9 in the City of San Luis Obispo and County
of San Luis Obispo, State of California, the
Necessity for Keeping the Crossing Open, and the
Need for Safety Improvements and
Apportionment of Costs.

Application 02-08-006

SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER

A Prehearing Conference (PHC) was held in this matter on November 18, 2002, in San Luis Obispo, before Administrative Law Judge (ALJ) Sheldon Rosenthal. Appearing at the PHC were representatives of Union Pacific Railroad (UP), California Polytechnic State University (Cal Poly), Glinda Services, Inc. (Glinda), City of San Luis Obispo (City), Church of the Latter Day Saints (LDS), Carolyn Craig (Craig), and the Commission's Rail Crossing Engineering Section (Staff).

The following issues were identified and should be addressed:

1. Is the crossing public, private, or publicly used?
2. Would closing the crossing create a greater hazard than protecting it?
3. If closed, what alternate route would the vehicular and/or pedestrian traffic take?

4. If closed, how would vehicular and/or pedestrian traffic be restrained from continuing use?
5. What type of reconfiguration and protection is necessary if the crossing were to remain open?
6. What would be the cost of the necessary changes?
7. Who should contribute to the reconfiguration, protection and maintenance of the crossing if left open, and in what proportion?
8. Would closing the crossing result in landlocked property?
9. What is the effect of deeds granting easement over the railroad tracks?
10. What is the effect of a potential expansion of Mustang Stadium on usage of the crossing?
11. Can the Commission apportion costs to property owners who have not entered appearances but whose tenants are prime users of the crossing?

In addition, the ALJ asked that there be evidence of:

1. The daily quantity of trains using the crossing and times of those trains.
2. The quantity of vehicles, bicycles, and pedestrians using the crossing.
3. How the current vehicles, bicycles, and pedestrians would reach their destinations if the crossing were closed.
4. A scale map showing the location of Mustang Stadium, Mustang Village, Stenner Glen, Glinda, Craig, the LDS Institute, and the alternate crossings available to the public.

Other matters may be raised at the discretion of the ALJ.

The parties agreed that discovery would be available until the end of January, with answers completed by the end of February. Evidentiary hearings are to be held during the week of May 5-9, 2003, in San Luis Obispo. Location of the hearing room will be announced by separate notice. The parties further agreed to the use of prepared testimony. Prepared testimony is to be mailed to all parties no later than April 18, 2003.

The following schedule is established:

Evidentiary hearings	May 5-9, 2003
Concurrent briefs	June 9, 2003
Reply briefs	June 24, 2003
ALJ Proposed Decision	September 19, 2003
Comments	October 20, 2003
Commission Decision	November 20, 2003

If briefs are not required, these dates will be advanced.

This matter was tentatively designated to be a ratesetting matter by Resolution ALJ 176-30393, dated August 22, 2002. That designation is affirmed. It was tentatively determined that a hearing would not be necessary. A hearing is required.

IT IS RULED that:

1. The Administrative Law Judge is the Principal Hearing Officer.
2. The preliminary designation of this proceeding as ratesetting is affirmed.
3. An evidentiary hearing is required.
4. The issues to be determined include, but are not limited to, those stated in this Memo.

5. The schedule to be followed is as stated in this Memo, unless otherwise changed by the Principal Hearing Officer.

Dated January 7, 2003, at San Francisco, California.

/s/ MICHAEL R. PEEVEY

Michael R. Peevey
Assigned Commissioner

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Scoping Memo and Ruling of Assigned Commissioner on all parties of record in this proceeding or their attorneys of record.

Dated January 7, 2003, at San Francisco, California.

/s/ FANNIE SID
Fannie Sid

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

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